

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 6, 2005. At the time of the Office Action, Claims 1-5 were pending in this Application. Claims 1-5 were rejected. Claims 1-5 have been canceled without prejudice. New claims 6-15 have been added. These claims more clearly define the various features of Applicants invention. Applicants respectfully request reconsideration and favorable action in this case.

#### Claim Objections

Examiner has objected to Claim 3 due to informalities, specifically, because the term "the technological process" cited in Claim 3 has not been forth cited in parent Claim 1 or 2. Applicants cancelled claims 1-5.

#### Rejections under 35 U.S.C. §103

Claims 1-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,778,971 issued to Altschuler ("Altschuler") in view of U.S. Patent 6,445,963 issued to Blevins ("Blevins"). Applicants canceled claims 1-5 and added new claims 6-15. With respect to the new claims, Applicants believes that the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

None of the prior art discloses a flexible system that can derive an internal main clock which controls the running level model from a variety of different sources. Both independent claims 6 and 10 now include a respective limitation directed to this feature. The Examiner stated that Altschuler discloses the feature of deriving a clock that drives the running level model in col. 14, lines 50-51. Applicants respectfully disagree. All Altschuler discloses in this paragraph is that time and date of an occurrence of an event are obtained. However, storing time and date will not provide for a clock that can control running level model. Altschuler does also not disclose or suggest that the time and date are obtained to generate any type of clock signal. this would also be unusual as it would be unclear how a clock signal could be derived from a time and date value. Thus, Applicants believe that Altschuler does not disclose this limitation.

The dependent claims include all the limitations of the respective independent claims to which they refer. Thus, Applicants believe that these claims are allowable at least to the extent of the respective independent claims.

#### **Information Disclosure Statement**

Applicants enclose an new Information Disclosure Statement and PTO Form 1449, with a copy of the references, along with a check in the amount of \$180.00, for the Examiner's review and consideration. Applicants submit that the references listed on the enclosed PTO Form 1449 were previously submitted in an Information Disclosure Statement on September 3, 2002 which the Examiner stated did not comply with 37 CFR 1.98(a)(1). Applicants respectfully request reconsideration of the references.

#### **Change of Correspondence Address**

Applicants respectfully request that all papers pertaining to the above-captioned patent application be directed to Customer No. 31625 and all telephone calls should be directed to Andreas Grubert at 512.322.2545.

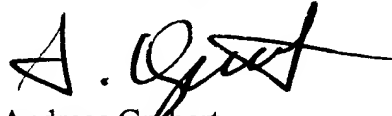
**CONCLUSION**

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorney for Applicant

A handwritten signature in black ink, appearing to read 'A. Grubert', with a long horizontal stroke extending to the right.

Andreas Grubert  
Limited Recognition under 37 C.F.R. §10.9)

Date: June 27, 2005

SEND CORRESPONDENCE TO:  
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